

SAALFIELD, ADMINISTRATOR OF BROWN, SUR-
VIVING CLAIMANT, ETC., *v.* UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

No. 101. Argued March 27, 1918.—Decided April 22, 1918.

Where a contract for the manufacture of guns for the United States provided for a preliminary test subject to the decision of the Chief of Ordnance and the Secretary of War, those officials were to decide, not arbitrarily, but candidly and reasonably, whether the test had been satisfied.

The findings of fact justify the conclusion that the test gun did not meet the contract requirements; the report of the Chief of Ordnance viewed as a whole in the light of the circumstances is consistent with this conclusion; there is no ground for the charge that the Chief of Ordnance and the Secretary of War, in annulling the contract, acted in bad faith or under gross mistake, or for holding that the Government by delays injurious to the contractors waived the right to annul.

51 Ct. Clms. 22, affirmed.